IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3581 OF 2006

Bhanukant Complex Co-op. Hsg.
Society Ltd., Mumbai ...Petitioner
V/s.
Polymer Enterprises India Pvt. Ltd.
& Ors. ...Respondents

Mr.G.N. Salunke, Advocate, for the Petitioner.
Mr.G.H. Mehta, Advocate, for Respondent No.1.

CORAM : R.M. SAVANT, J.
DATE : March 7, 2007.

P.C.:

Rule,

. With the consent of the parties made returnable forthwith and heard. This petition filed under Article 227 of the Constitution of India impugnes the order dated 23.12.2005 passed by the Divisional Joint Registrar, Co-operative Societies, Bombay. By the said order, the Revision Application filed by the petitioner herein has been rejected.

. Such of the facts which are necessary to be recited are stated thus. The petitioner is a Co-operative Housing Society. The flats in the petitioner society are for residential use. The Respondent No.1 herein has purchased two flats bearing No.202 and 203 in the said society from the original members Shri.Parag Parekh and Shri.Prashant Parekh.

The Respondent No.1 after the said purchase applied for transfer of shares and flats in the petitioner society. It appears that the said application was not in the prescribed form. The petitioner society, therefore, did not take cognizance of the said application. The Respondent No.1, therefore, filed an Appeal before the Deputy Registrar of the Co-operative Societies before the Deputy Registrar "P" Ward. The said Appeal was numbered as 12 of 2003. In the said Appeal a notice was issued to the petitioner. The petitioner filed an exhaustive written statement. The said Appeal of the Respondent No.1 came to be allowed by the Deputy Registrar by his order dated 31.07.2003. Resultantly, the petitioner society was directed to complete the procedure of making the Respondent No.1 as member within 15 days.

. Being aggrieved by the said order dated 31.07.2003 of the Deputy Registrar, the petitioner society filed a Revision Application before the Divisional Joint Registrar being Revision Application No.772 of 2003. In the said Revision Application, the petitioner society challenged the order of the Deputy Registrar on various grounds mentioned in the said Revision Application. However the principal challenge of the petitioner society was on account of non compliance of Rule 19 and Rule 24 (B) & (C) which postulate the manner in which the application for membership is to be made. The petitioner society also

relied upon Bye-Laws 19(C) and 78 of the certified Bye-Laws of the Society, according to the petitioner the membership could not be granted to Respondent No.1 in violation of the said Bye-Laws which contemplates the use of the flats in the society only for residential purposes.

. The said Revision Application was considered by the Divisional Joint Registrar, Co-operative Societies and by the impugned order dated 23.12.2005, the said Revision Application filed by the petitioner society came to be rejected. Though various grounds were raised in the said Revision Application by the petitioner, the Divisional Joint Registrar has not bothered to deal with any of the grounds raised by the petitioner society. The said Revision Application of the petitioner, in my view, was disposed of in a perfunctory manner by the said Divisional Joint Registrar. It is expected of a Quasi-Judicial Authority to advert to and deal with the issues raised before it, the manner in which the impugned order has been passed, the said can hardly be said to have been done by the said Divisional Joint Registrar. In that view of the matter the impugned order dated 23.12.2005 passed by the Divisional Joint Registrar would have to be set aside and the Revision Application would have to be relegated back to the said authority for a decision afresh. All the contentions of the parties are explicitly kept open to be agitated before the

said Divisional Joint Registrar. The Divisional Joint Registrar is directed to hear the Revision Application on its own merits and in accordance with law without being influenced by the observations in this order. The said Revision on remand to be decided within a period of three months from the receipt of the Writ of this Court. Rule is accordingly made absolute in the aforesaid terms with no order as to costs.

(R.M. SAVANT, J.)